

SECRET

Approved For Release 2002/01/23 : CIA-RDP75B00380R000800030027-6 0496

12 FEB 1971

25X1A MEMORANDUM FOR: [REDACTED]
Office of Legislative Counsel

THROUGH : Deputy Director for Support *for* 12 FEB 1971

SUBJECT : Extension of the Ban on Maximum Age Limits to Positions
in the Excepted Service

1. This is in response to your request for a coordinated Agency position concerning the proposal to enact changes in subchapter II of chapter 71 of Title 5, U. S. Code.

25X1A 2. This Agency has set no maximum age limits for appointment to staff positions in general or for particular positions although age is obviously a factor for consideration for entry into the Career Training Program or the [REDACTED]

25X1A 3. The Agency's retirement policy as published in [REDACTED] and OPM 20-12-14 (copies attached) has the effect of establishing age limits on staff employment except as specifically approved by the Director of Central Intelligence.

4. The issue at hand seems to present a general legal problem rather than a matter to be justified on the basis of particular position requirements. The real question is whether the Director shall continue to have authority to establish personnel policies and practices in the Agency's interest without such action being subject to external review by the Civil Service Commission.

5. We recommend that the Agency take the position that it is essential for the Director to have such authority and that the Agency must, therefore, seek exemption from the proposed legislation.

[REDACTED]
Director of Personnel

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Atts

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HR [REDACTED]

PERSONNEL

44. CIVIL SERVICE RETIREMENT SYSTEM. The provisions of this paragraph apply only to retirement under the Civil Service Retirement Act, as amended. The provisions of the CIA Retirement and Disability Act of 1964 are in HR 20-50.

a. GENERAL

- (1) Staff personnel, excluding only those receiving temporary appointments, may be participants in the Civil Service Retirement System. Career Agents may be participants in the Civil Service Retirement System. Contract employees whose employment or reemployment became effective on or after 1 July 1967, who are United States citizens, whose contract is for a period in excess of one year, and who are employed on a regularly scheduled basis (full- or part-time) may also participate in the Civil Service Retirement System.
- (2) Staff personnel and contract employees who do not meet basic eligibility criteria may still participate in the system if their employment follows without a break in service in excess of three days other employment subject to Civil Service retirement deductions.
- (3) The amount of retirement benefits, insofar as Agency employment is concerned, is based on Agency salary. Retirement deductions for integrees, except military staff agents, will be made by the integrating agency on the basis of the individual's integrated salary with subsequent adjustment in accordance with the provisions of HR 20-31d, Settlement of Compensation Differences.

b. POLICY. Employees generally will retire at age 60 or as soon thereafter as they are eligible for optional retirement under the Civil Service Retirement System, i.e., upon completion of 20 years of service at age 60 or after a minimum of five years of service at age 62. Exceptions to the general policy will be considered by the Director on an individual case basis when requested by a Deputy Director, Head of Career Service, Head of Independent Office, or the employee. See paragraph c below.

c. EXCEPTIONS

- (1) Employees may be extended beyond the scheduled retirement age established in accordance with b above when because of skills or other qualifications which are needed and should be preserved for the Agency or for other reasons the Deputy Directors, Heads of Career Services, or Heads of Independent Offices believe it desirable to continue their employment.
- (2) Employees may request an exception to the Agency's policy based on unusual and compelling personal circumstances which would result in serious personal hardship if retirement takes place as scheduled. Requests should be forwarded through the Operating Official or Head of Independent Office concerned.
- (3) Requests for exceptions will be submitted at least 12 months in advance of an employee's retirement date. Where the 12-month limit cannot be met, an explanation of the precluding circumstances must be submitted with the exception request.

Official Record Copy

28 DEC 1970

14 December 1970

OFFICE OF PERSONNEL MEMORANDUM NO. 20-12-14

SUBJECT : Appointments

REFERENCES: (a) [REDACTED] dated 14 September 1967
(b) [REDACTED] dated 18 August 1969

1. Career-Provisional Appointments. In accordance with reference (a) staff personnel who are employed with the intention that they will attain Career Employee status upon completion of 3 years' service will normally be appointed as Career-Provisional Employees.

a. Since Agency policy requires employees to retire at age 60, those individuals being employed for staff officer positions who will not have completed 20 years of Federal service (including military service) creditable toward retirement by age 60 will normally be given limited appointments as Reserve Employees.

b. Individuals employed to fill staff clerical positions will normally be appointed as Career-Provisional Employees unless they will not have completed 5 or more years of service creditable toward retirement by age 62. When this is the case, such individuals will be appointed as Reserve or Temporary Employees as appropriate depending upon their age and the anticipated duration of the need for their services.


2. Reserve and Temporary Appointments. Staff personnel who are employed for limited periods of service will be appointed as Reserve Employees when it is expected that the need for their services will exceed one year but not five years. Staff personnel will be appointed as Temporary Employees when it is expected that the need for their services will not exceed one year. Reserve and Temporary appointments will terminate at the end of the prescribed appointment period or sooner when it is determined that an individual's services are no longer needed. The appointments of Reserve and Temporary Employees may be extended beyond the prescribed appointment period when it has been determined that an individual's services will be required for a longer period.

Group 1
Excluded from Automatic
Downgrading and
Declassification

S-E-C-R-E-T

3. Appointment of Retired Military Officers and Civilian Employees. In accordance with reference (b) when it becomes necessary to employ retired careerists from any branch of the Government including military officers, they will be appointed as Reserve or Temporary Employees depending on the anticipated duration of the need for their services. Extensions of the appointments of such retirees or the conversion of their appointments to Career Employee status will also be accomplished in accordance with reference (b).

4. Appointment Authority. The Chief, Staff Personnel Division is delegated the authority to approve the appointment of Reserve and Temporary Employees other than retirees from Government service. He is also delegated the authority to approve the extensions of such appointments and the conversion of such appointees to Career Employee status when appropriate. In all cases of the conversion from Reserve Employee or Temporary Employee to Career Employee status employees considered will be required to sign a Statement of Retirement Understanding pertinent to their particular circumstances.


Director of Personnel

OPM 16-70

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☐ CONFIDENTIAL

☐ SECRET

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:

OLC

EXTENSION

6136

NO.

DATE

2 February 1971

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1.

DDS Attn: [REDACTED]

2.

Director of Personnel

3.

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15.

May we please have a coordinated Agency position on the attached proposed legislation. Since our views to OMB are to be submitted by 19 February, we would like to have your recommendations by 10 February, if that is convenient.

You will note that the proposed legislation extends to Executive agencies and thus goes beyond the current law which extends solely to the competitive service. This would appear to be a legal narrowing of the Director's existing appointment authority.

Your attention is invited to the third paragraph of the 28 January referral memorandum which our letter to OMB should cover to be fully responsive.

In anticipation that you will be consulting the General Counsel on this, we are sending a duplicate package to OGC.

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OLC 71-0075
January 28, 1971

LEGISLATIVE REFERRAL MEMORANDUM

To: Legislative Liaison Officer


Justice	HUD
Treasury	GSA
State	AEC
Labor	CIA
HEW	TVA
Defense	VA
DOT	Federal Reserve
Interior	Panama Canal
Agriculture	
Commerce	

Subject: CSC draft bill "Relating to age requirements for appointments to positions in Executive agencies, and in the competitive service."

We would appreciate receiving the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with Budget Circular A-19.

Please include in your comments examples of the types of positions, if any, for which you might seek an exemption under the proposed authority. Please also indicate the approach you would employ in determining whether an exemption would be appropriate.

Special circumstances require priority treatment and your views are requested by noon Friday, February 19, 1971. Questions should be referred to Hilda Schreiber (103-4650) or to Victor Zafra (103-3736), the legislative analyst in this office.


Naomi R. Sweeney, for
Assistant Director for
Legislative Reference

25X1A

Enclosure
CSC draft bill



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UNITED STATES CIVIL SERVICE COMMISSION

IN REPLY PLEASE REFER TO

WASHINGTON, D.C. 20415

YOUR REFERENCE

January 27, 1971

Honorable George P. Shultz
Director
Office of Management and Budget

Dear Mr. Shultz:

Enclosed is a legislative proposal (draft bill, section analysis, and statement of purpose and justification) which would substitute for the present outright ban on maximum age limits for entry into the competitive service a provision authorizing the Civil Service Commission to establish maximum age limits for entry into civil service positions in Executive agencies when age is found to be a bona fide occupational qualification reasonably necessary to the performance of duties. The proposed provision not only would introduce needed flexibility into this area but would take the desirable step of extending the Government's clear policy against age discrimination to positions in the excepted service. The authority proposed for the Commission would be similar to that now held by the Secretary of Labor for private industry under the Age Discrimination in Employment Act of 1967 (81 Stat. 602).

This bill is part of the Commission's legislative program for the 92nd Congress. It was originally scheduled for submission in March 1971, but at the request of your office, it is being submitted at this time. Also at the request of your office, letters of transmittal to the House and the Senate are not included in the package.

Under current law (5 U.S.C. 3307), no official in the Federal Government can establish a maximum age requirement for entry into positions in the competitive civil service. In 1969 Congress enacted legislation (Public Law 91-73) authorizing the Secretary of the Interior to establish minimum and maximum age limits for original appointments to the United States Park Police without regard to 5 U.S.C. 3307. The Commission offered no objection to the legislation.

In 1970, the Commission was requested by your office to comment on a proposed bill to authorize the Attorney General to establish age limitations for original appointments in the Department of Justice to positions of Border Patrol Agent, Criminal Investigator, Correctional Officer, and Deputy United States Marshal. The Justice Department stated that the justifications for passage of Public Law 91-73 applied with equal force to the four positions mentioned in its bill. The Commission supported the Department's bill.

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THE MERIT SYSTEM—A GOOD INVESTMENT IN GOOD GOVERNMENT

The Commission was also asked in 1970 for its comments on the legislative proposal of the Department of Transportation to provide, among other things, for maximum entrance and retention ages and early retirement for air traffic controllers. We concurred in all three of these provisions, recognizing the importance of assuring a young and effective work force to cope with the pressures of air traffic controller duties.

Late last year our staff was asked by your office to comment on a proposal by the General Services Administration to permit the Administrator to set maximum age limits for certain guard positions in buildings under the jurisdiction of GSA and the Post Office Department. The staff expressed the view that the proposal was objectionable and emphasized again our preference for broader legislation giving the Commission authority to set maximum age limits when appropriate.

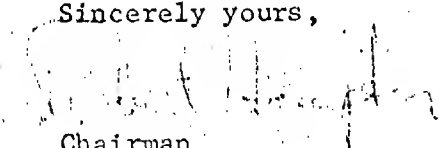
It has been indicated that other Federal agencies will seek similar authority for positions under their jurisdictions for which it would be desirable to establish a maximum entry age. In the Commission's view, it is far more desirable for age limits to be set administratively when found appropriate than it is for these limits to be set by statute on an occupation-by-occupation and an agency-by-agency basis. Thus, we propose that the Commission be given, as part of its responsibilities for regulating employment in the civil service, the authority to establish an age limitation for appointment to a position for which it finds age to be a bona fide occupational qualification reasonably necessary to the performance of the duties.

As indicated above, the authority being sought for the Commission would parallel that granted to the Secretary of Labor under the Age Discrimination in Employment Act of 1967 to make appropriate exceptions from that Act's broad prohibition against age discrimination in private-sector employment. There is as much need for this kind of relief in the Federal service as there is in private industry.

We shall appreciate your informing us whether the proposal is in accord with the President's program and whether there is any objection to its being submitted to the Congress.

By direction of the Commission:

Sincerely yours,


Chairman

Enclosures